

Public Law 96-163
96th Congress

An Act

Dec. 28, 1979
[H.R. 4943]

Granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

New York-New
Jersey Port
Authority
Compact.
Congressional
consent.

Findings and
determinations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to an agreement or compact amendatory of and supplemental to the Compact between the States of New York and New Jersey creating the Port of New York District and establishing the Port of New York Authority which agreement or compact has been agreed to by such States effective August 24, 1978, and is substantially as follows:

"SECTION 1. The states of New York and New Jersey hereby find and determine:

"a. that to prevent further deterioration of the economy of the port district and thereby to promote, preserve and protect trade and commerce in and through the port of New York district as defined in the compact between the two states dated April thirty, nineteen hundred twenty-one (hereinafter called the port district), it is the policy of each of the two states actively to promote, attract, encourage and develop economically sound commerce and industry through governmental action;

"b. that in order to preserve and protect the position of the port of New York as the nation's leading gateway for world commerce, it is incumbent on the states of New York and New Jersey to make every effort to insure that the port receives its rightful share of interstate and international commerce generated by the manufacturing, industrial, trade and commercial segments of the economy of the nation and of the port district;

"c. that since nineteen hundred fifty the number of available jobs in the port district, particularly within the older central cities thereof, has decreased, thereby resulting in the underutilization of available land and other resources, the erosion of the port district's tax bases and a rate of unemployment substantially in excess of the national average;

"d. that in order to preserve the port district from further economic deterioration, adequate industrial development projects and facilities must be provided, preserved and maintained to attract and retain industry within the port district;

"e. that a number of new industrial development projects and facilities should be organized into industrial parks or districts;

"f. that the construction of such industrial parks or districts shall conform to the policies of the two states with respect to affirmative action and equal employment opportunities;

"g. that providing port district industrial development projects and facilities is in the public interest and involves the exercise of public and essential governmental functions which may include appropriate

and reasonable limitations on competition and which must be performed by the two states, or any municipality, public authority, agency or commission of either state and by a joint agency of the two states to accomplish the purposes of this act;

"h. that it is an objective of the two states, acting through the port authority, to facilitate reemployment of residents of the older cities through job training programs and employment opportunity priorities in connection with industrial development parks in their respective cities;

"i. that the acquisition and the use by such joint agency of abandoned, undeveloped or underutilized land or land owned by governmental entities within the port district for the generation of jobs and to reduce the hazards of unemployment would promote, preserve and protect the industry, trade and commerce of the port district, and will materially assist in preserving for the two states and the people thereof the material and other benefits of a prosperous port community;

"j. that the collection, disposal and utilization of refuse, solid waste or waste resulting from other treatment processes is an activity of concern to all citizens within the port district, that the health, safety and general welfare of the citizens within the port district require efficient and reasonable collection and disposal services and efficient utilization of such refuse, solid waste or waste resulting from other treatment processes with adequate consideration given to regional planning and coordination, and, therefore, that the construction and operation of any port district industrial development project and facility should conform to the environmental and solid waste disposal standards and state and county plans therefor in the state in which such project or facility is located;

"k. that the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials, together with the commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued furnishing of such lower priced energy and material is in the public interest and would be a major incentive for the attraction and retention of industry within the port district;

"l. that the port authority of New York and New Jersey (hereinafter called the port authority), which was created by agreement of the two states as a joint agent for the development of terminal, transportation and other facilities of commerce of the port district and for the promotion and protection of the commerce of the port, is a proper agency to act in their behalf (either directly or by any subsidiary corporation) to finance and effectuate such industrial development projects and facilities;

"m. that it is desirable for the port authority, after consultation with the governing body of each municipality and within the city of New York the appropriate community board or boards and elsewhere another government entity or entities designated by such municipality in which industrial development projects or facilities are proposed to be located and with other persons, including but not limited to private real estate developers, to prepare and adopt a master plan providing for the development of such industrial development projects and facilities in the port district, which plan shall give consideration to the extent of unemployment and the general economic conditions of the respective portions of the port district and shall

include among other things the locations and the nature and scope of such projects and facilities as may be included in the plan;

"n. that the undertaking of such industrial development projects and facilities by the port authority has the single object of and is part of a unified plan to aid in preserving the economic well-being of the port district and is found and determined to be in the public interest;

"o. that no such port district industrial development projects and facilities are to be constructed if the sole intent of the construction thereof would be the removal of an industrial or manufacturing plant of an occupant of such projects and facilities from one location to another location or in the abandonment of one or more plants or facilities of such occupant, unless such port district industrial development projects and facilities are reasonably necessary to discourage such occupant from removing such plant or facility to a location outside the port district or are reasonably necessary to preserve the competitive position of such project occupant in its industry;

"p. that no such port district industrial development projects or facilities are to be constructed unless and until the port authority has entered into an agreement or agreements with the municipality in which any such project or facility is to be located with respect to payments in lieu of real estate taxes and the location, nature and scope of any project or facility;

"q. that, subject to entering into said agreement or agreements, the port authority should have the ability to acquire, lease, vacate, clear and otherwise develop abandoned, undeveloped or underutilized property or property owned by governmental entities within the port district and to finance and construct industrial development projects and facilities.

Definitions.

"§ 2. The following terms as used in this act shall have the following meanings:

"a. 'Bonds' shall mean bonds, notes, securities or other obligations or evidences of indebtedness;

"b. 'Effectuation' of any project or facility or part of any such project or facility shall include but not be limited to its establishment, acquisition, construction, development, maintenance, operation, improvement (by way of betterments, additions or otherwise) and rehabilitation by the port authority or any other person and the provision of funds therefor through the issuance of obligations, the making or granting of loans or otherwise;

"c. 'General reserve fund statutes' shall mean chapter forty-eight of the laws of New York of nineteen hundred thirty-one as amended, and chapter five of the laws of New Jersey of nineteen hundred thirty-one as amended, and 'general reserve fund' shall mean the general reserve fund of the port authority authorized by said statutes;

"d. 'Governing body' shall mean the board or body vested with the general legislative powers of the municipality in which an industrial development project or facility will be financed or effectuated pursuant to this act;

"e. 'Industrial development project or facility' or 'port district industrial development project or facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property, located within the New York portion of the port district or within a municipality in the New Jersey portion of the port district which qualified for state aid under the provisions of P.L., 1971, C. 64 as most recently supplemented by P.L., 1978, C. 14 or which may hereafter qualify for such aid, including, but not limited to, machinery, equipment and other

facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be considered suitable by the port authority for manufacturing, research, non-retail commercial or industrial purposes within an industrial park, or for purposes of warehousing or consumer and supporting services directly related to any of the foregoing or to any other port authority project or facility; and which may also include or be an industrial pollution control facility or a resource recovery facility, provided that no such industrial development project or facility may include or be a facility used for the storage of chemicals, fuel or liquified natural gas unless incidental to the effectuation of such industrial development project or facility;

"f. 'Industrial pollution control facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property, located within the port district, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in the opinion of the port authority in connection therewith, or incidental thereto, whether or not now in existence or under construction, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site, provided that no such industrial pollution control facility may include or be used as a site for organic landfill or be of a character or nature generally furnished or supplied by any other governmental entity where such industrial pollution control facility is located without the consent of such governmental entity;

"g. 'Municipality' means a city, county, town or village all or any part of which is located within the New York portion of the port district, or a city, county, town, borough or township all or any part of which is located within the New Jersey portion of the port district;

"h. 'Person' means any person, including individuals, firms, partnerships, associations, societies, trusts, public utilities, public or private corporations, or other legal entities, including public or governmental bodies, which may include the port authority, as well as natural persons. 'Person' shall include the plural as well as the singular;

"i. 'Port authority' shall include the port authority and any subsidiary corporation now or hereafter incorporated for any of the purposes of this act; provided, however, as used in sections 4 and 5 of this act it shall not include any such subsidiary corporation;

"j. 'Purposes of this act' shall mean the effectuation of industrial development projects and facilities and of each project or facility constituting a portion thereof and of each part of each project or facility, and purposes incidental thereto;

"k. 'Real property' shall mean lands, structures, franchises and interests in land, including air space and air rights, waters, lands under water, wetlands and riparian rights, and any and all things and rights included within the said term, and includes not only fees simple absolute but also any and all lesser interests, including but not limited to easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right,

legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise;

"l. 'Resource recovery facility' shall mean any equipment, improvement, structure or facility or any land, and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property located within the port district, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in the opinion of the port authority in connection therewith, or incidental thereto, whether or not now in existence or under construction, for the disposal of refuse or other solid wastes or wastes resulting from other treatment processes and for the recovery and sale or use of energy and other resources from such refuse or other solid wastes or wastes resulting from other treatment processes, provided that no such resource recovery facility may include or be used as a site for organic landfill;

"m. 'Surplus revenues' from any facility shall mean the balance of the revenues from such facility (including but not limited to the revenues of any subsidiary corporation incorporated for any of the purposes of this act) remaining at any time currently in the hands of the port authority after the deduction of the current expenses of the operation and maintenance thereof, including a proportion of the general expenses of the port authority as it shall deem properly chargeable thereto, which general expenses shall include but not be limited to the expense of protecting and promoting the commerce of the port district, and after the deduction of any amounts which the port authority may or shall be obligated to pay or shall have obligated itself to pay to or set aside out of the current revenues therefrom for the benefit of the holders of any bonds legal for investment as defined in the general reserve fund statutes;

"n. 'Surplus revenues of port district industrial development projects or facilities' shall mean the surplus revenues of all industrial development projects or facilities effectuated pursuant to the terms of this act.

Port authority's
powers,
authorization.

"§ 3. (a) In furtherance of the aforesaid findings and determinations, in partial effectuation of and supplemental to the comprehensive plan heretofore adopted by the two said states for the development of the said port district, and subject to the preparation and adoption of the plan authorized in paragraph (b) of this section three and the execution of an agreement or agreements authorized by sections eleven and twelve hereof, the port authority is hereby authorized, empowered and directed to establish, acquire, construct, effectuate, develop, own, lease, maintain, operate, improve, rehabilitate, sell, transfer and mortgage projects or facilities herein referred to as port district industrial development projects or facilities, as defined in this act.

"The port authority is hereby authorized and empowered to establish, levy and collect such rentals, fares, fees and other charges as it may deem necessary, proper or desirable in connection with any facility or part of any facility constituting a portion of any port district industrial development project or facility and to issue bonds for any of the purposes of this act and to provide for payment thereof, with interest thereon, and for the amortization and retirement of such bonds, and to secure all or any portion of such bonds by a pledge of such rentals, fares, fees, charges and other revenues or any part thereon (including but not limited to the revenues of any subsidiary corporation incorporated for any of the purposes of this act) and to secure all or any portion of such bonds by mortgages upon any property held or to be held by the port authority for any of the

purposes of this act, and for any of the purposes of this act to exercise all appropriate powers heretofore or hereafter delegated to it by the states of New York and New Jersey, including, but not limited to, those expressly set forth in this act. The surplus revenues of port district industrial development projects or facilities may be pledged in whole or in part as hereinafter provided.

"(b) The port authority is hereby authorized to initiate studies and prepare and adopt a master plan providing for the development of port district industrial development projects and facilities which shall include the location of such projects and facilities as may be included in the plan and shall to the maximum extent practicable include inter alia a general description of each of such projects and facilities, the land use requirements necessary therefor, and estimates of project costs, of project employment potential and of a schedule for commencement of each such project. Prior to adopting such master plan, the port authority shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendation made by the governing body of municipalities and within the city of New York the appropriate community board or boards and elsewhere another governmental entity or entities designated by such municipality in which industrial development projects or facilities are proposed to be located and with such other persons, including but not limited to private real estate developers, which in the opinion of the port authority is either necessary or desirable. The master plan shall include the port authority's estimate of the revenues to be derived by municipalities from each such industrial development project or facility and also a description of the proposed additional arrangements with municipalities necessary or desirable for each such project or facility. The port authority may modify or change any part of such plan in the same form and manner as provided for the adoption of such original plan. At the time the port authority authorizes any industrial development project or facility, the port authority shall include with such authorization a statement as to the status of each project included in such master plan and any amendment thereof.

Industrial
development,
master plan.

"(c) No industrial development project proposed to be located within the city of New York may be included in such master plan unless and until the mayor of the city of New York requests the port authority to conduct a comprehensive study of the feasibility of the effectuation of one or more industrial development projects or any parts thereof (including resource recovery or industrial pollution control facilities) in such city, which request shall specify the borough in which such comprehensive study is to take place; provided, however, that the president of any borough in which an industrial development project or facility is proposed to be located may within sixty days of receipt of notice of such request, and after consulting with and considering any recommendation made by the local borough improvement board, notify the port authority not to include any proposed industrial development project or facility within that county in such feasibility study. Any such request by the mayor of the city of New York may specify the facilities to be included in such industrial park project.

New York City,
inclusion in
plan.

"§ 4. The moneys in the general reserve fund may be pledged in whole or in part by the port authority as security for or applied by it to the repayment with interest of any moneys which it may raise upon bonds issued or incurred by it from time to time for any of the purposes of this act or upon bonds secured in whole or in part by the pledge of the revenues from any industrial development project or

Financing.

facility or any portion thereof or upon bonds both so issued or incurred and so secured; and the moneys in said general reserve fund may be applied by the port authority to the fulfillment of any other undertakings which it may assume to or for the benefit of the holders of any such bonds.

"Subject to prior liens and pledges (and to the obligation of the port authority to apply revenues to the maintenance of its general reserve fund in the amount prescribed by the general reserve fund statutes), the revenues from facilities established, constructed, acquired or otherwise effectuated through the issuance or sale of bonds of the port authority secured in whole or in part by a pledge of its general reserve fund or any portion thereof may be pledged in whole or in part as security for or applied by it to any of the purposes of this act, including the repayment with interest of any moneys which it may raise upon bonds issued or incurred from time to time for any of the purposes of this act or upon bonds secured in whole or in part by the pledge of the revenues of the port authority from any industrial development project or facility or any portion thereof or upon bonds both so issued or incurred and so secured; and said revenues may be applied by the port authority to the fulfillment of any other undertakings which it may assume to or for the benefit of the holders of such bonds.

General reserve
fund.

"§ 5. In all cases where the port authority has raised or shall hereafter raise moneys for any of the purposes of this act by the issue and sale of bonds which are secured in whole or in part by a pledge of the general reserve fund or any portion thereof, the surplus revenues from industrial development projects or facilities financed in whole or in part out of the proceeds of such bonds and the surplus revenues from any other port authority facility the surplus revenues of which at such time may be payable into the general reserve fund shall be pooled and applied by the port authority to the establishment and maintenance of the general reserve fund in an amount equal to one-tenth of the par value of all bonds legal for investment, as defined in the general reserve fund statutes, issued by the port authority and currently outstanding, including such bonds issued for any of the purposes of this act; and all such moneys in said general reserve fund may be pledged and applied in the manner provided in the general reserve fund statutes.

"In the event that any time the balance of moneys theretofore paid into the general reserve fund and not applied therefrom shall exceed an amount equal to one-tenth of the par value of all bonds upon the principal amount of which the amount of the general reserve fund is calculated, by reason of the retirement of bonds issued or incurred from time to time for any of the purposes of this act the par value of which had theretofore been included in the computation of said amount of the general reserve fund, then the port authority may pledge or apply such excess for and only for the purposes for which it is authorized by the general reserve fund statutes to pledge the moneys in the general reserve fund and such pledge may be made in advance of the time when such excess may occur.

Port authority's
power,
restriction on
States.

"§ 6. The two states covenant and agree with each other and with the holders of any bonds issued by the port authority for the purposes of this act, that so long as any of such bonds remain outstanding and unpaid and the holders thereof shall not have given their consent as provided in their contract with the port authority, the two states will not diminish or impair the power of the port authority to establish, levy and collect rentals, fares, fees or other charges in connection with industrial development projects or facilities or any other facility

owned or operated by the port authority the revenues of which have been or shall be pledged in whole or in part as security for such bonds (directly or indirectly, or through the medium of the general reserve fund or otherwise), or to determine the quantity, quality, frequency or nature of any services provided by the port authority in connection with the operation of each project or facility. This section shall not affect or diminish the provisions of section twelve of this act.

"§ 7. The port authority is authorized and empowered to co-operate with the states of New York and New Jersey, with any municipality thereof, with any person, with the federal government and with any agency, public authority or commission of any one or more of the foregoing, or with any one or more of them, for and in connection with the acquisition, clearance, replanning, rehabilitation, reconstruction or redevelopment of any industrial development project or facility or of any other area forming part of any industrial development project or facility for the purpose of renewal and improvement of said area and for any of the purposes of this act, and to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with any such person, municipality, commission, public authority or agency and with the states of New York and New Jersey and with the federal government, or with any one or more of them, for or relating to such purposes, including but not limited to agreements with respect to the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials; with respect to a commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued availability of such energy and recovered materials; with respect to financial assistance, loans and grants pursuant to any federal law now in effect or hereinafter enacted which would provide such financial assistance, loans and grants in connection with any of the purposes of this act, provided, that if either state shall have or adopt general legislation governing applications for such federal aid by municipalities, public authorities, agencies or commissions of such state or the receipt or disbursement of such federal aid by or on behalf of such municipalities, public authorities, agencies or commissions, then such legislation shall at the option of such state apply to applications by the port authority for such federal aid in connection with an industrial development project or facility located in such state and to the receipt and disbursement of such federal aid by or on behalf of the port authority, in the same manner and to the same extent as other municipalities, public authorities, agencies or commissions of such state; and, with respect to occupancy of space in any industrial development project or facility. The port authority is hereby authorized and empowered to apply for and accept financial assistance, loans and grants for such purposes under federal, state or local laws, and to make application directly to the proper officials or agencies for and receive federal, state or local loans or grants in aid of any of the purposes of this act. Nothing contained in this act shall be construed to limit or impair the power of the governor of the state of New York and the governor of the state of New Jersey to review the actions of the commissioners of the port authority as provided for in chapter seven hundred of the laws of New York of nineteen hundred twenty-seven, as amended, and in chapter three hundred thirty-three of the laws of New Jersey of nineteen hundred twenty-seven, as amended,

Cooperative agreements.

Financial assistance from Federal, State, and local governments.

Subsidiary
corporation.

Cooperative
agreements.

or to authorize the port authority to commence the effectuation of any industrial development project or facility unless and until the municipality in which such project or facility is to be located has consented to the commencement of such effectuation, with such consent to be provided for in the agreement authorized by section 11 or section 12 hereof. The port authority is authorized and empowered to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with any public authority, agency or commission of either or both states to provide for the effectuation of any of the purposes of this act through a subsidiary corporation owned jointly by the port authority and any such public authority, agency or commission, and any such public authority, agency or commission is authorized and empowered to enter into such agreement or agreements with the port authority.

"§8. Notwithstanding any contrary provision of law, general, special or local, either state and any municipality thereof and any commission, public authority or agency of either or both of said two states is authorized and empowered to cooperate with the port authority and to enter into an agreement or agreements (and from time to time to enter into agreements amending or supplementing the same) with the port authority or with any other person for and in connection with or relating to the acquisition, clearance, replanning, rehabilitation, reconstruction, redevelopment, sale, transfer or mortgage of any industrial development project or facility or of any other area forming part of any industrial development project or facility for the purpose of renewal and improvement of said area as aforesaid or for any of the other purposes of this act, including but not limited to the dedication by the municipalities of the port district of refuse, solid waste or waste resulting from other treatment processes to resource recovery to permit the generation of lower priced energy and the recovery of useful materials and a commitment by such municipalities to pay fees to permit the delivery and removal after processing of such refuse or solid waste at rates and for periods of time at least sufficient to assure the continued availability of such energy and recovered materials, upon such reasonable terms and conditions as may be determined by such state, municipality, public authority, agency or commission and the port authority. Such agreement may, without limiting the generality of the foregoing, further include consent to the use by the port authority or any other person of any real property owned or to be acquired by said state, municipality, public authority, agency or commission and consent to the use by such state, municipality, public authority, agency or commission of any real property owned or to be acquired by the port authority or by any other person which in either case is necessary, convenient or desirable in the opinion of the port authority for any of the purposes of this act, including such real property, improved or unimproved, as has already been devoted to or has been or is to be acquired for urban renewal or other public use, and as an incident to such consent such state, municipality, public authority, agency or commission may grant, convey, lease or otherwise transfer any such real property to the port authority or to any other person and the port authority may grant, convey, lease or otherwise transfer any such real property to such state, municipality, public authority, agency, commission or any other person for such term and upon such conditions as may be agreed upon. If real property of such state, municipality, public authority, agency or commission be leased to the port authority or to any other person for any of the purposes of this act, such state, municipality, public authority, agency or commission may consent to

the port authority or any other person having the right to mortgage the fee of such property and thus enable the port authority or such other person to give as security for its bond or bonds a lien upon the land and improvements, but such state, municipality, public authority, agency or commission by consenting to the execution by the port authority or such other person of a mortgage upon the leased property shall not thereby assume and such consent shall not be construed as imposing upon such state, municipality, public authority, agency or commission any liability upon the bond or bonds secured by the mortgage. In connection with any of the purposes of this act, either state and any municipality thereof, any commission, public authority or agency of either or both of said two states, the port authority and any other person are empowered to enter into any other agreement or agreements (and from time to time to enter into agreements amending or supplementing same) which may provide inter alia for the establishment of prices or rates, a requirement that any person sell, lease or purchase any commodity or service from any other person, or any other similar arrangement.

"Nothing contained in this section shall impair or diminish the powers vested in either state or in any municipality, public authority, agency or commission to acquire, clear, replan, reconstruct, rehabilitate or redevelop abandoned, undeveloped or underutilized land and the powers herein granted to either state or any municipality, public authority, agency or commission shall be construed to be in aid of and not in limitation or in derogation of any such powers heretofore or hereafter conferred upon or granted to such state, municipality, public authority, agency or commission.

"Nothing contained in this act shall be construed to authorize the port authority to acquire, by condemnation or the exercise of the right of eminent domain, property now or hereafter vested in or held by either state or by any municipality, public authority, agency or commission without the authority or consent by such state, municipality, public authority, agency or commission, provided that the state under whose laws such public authority, agency or commission has been created may authorize by appropriate legislation the port authority to acquire any such property vested in or held by any such public authority, agency or commission by condemnation or the exercise of the right of eminent domain without such authority or consent; nor shall anything herein impair or invalidate in any way any bonded indebtedness of either state or any such municipality, public authority, agency or commission, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from such property, or dedicating the revenues derived from such property to a specific purpose.

"The port authority, subject to the express authority or consent of any such state, municipality, public authority, agency or commission, is hereby authorized and empowered to acquire from any such state or municipality, or from any other public authority, agency or commission having jurisdiction in the premises, by agreement therewith, and such state or municipality, public authority, agency or commission, notwithstanding any contrary provision of law, is hereby authorized and empowered to grant and convey, upon reasonable terms and conditions, any real property which may be necessary, convenient or desirable for any of the purposes of this act, including such real property as has already been devoted to a public use.

"Notwithstanding any inconsistent provision of this section or act or any compact or general or special law, the port authority may not acquire any park lands for industrial development projects or facili-

Park lands,
restriction on
acquisition.

ties unless each such conveyance of such land is specifically authorized by the legislature of the state wherein the land is located.

"Any consent by a municipality shall be given and the terms, conditions and execution by a municipality of any agreement, deed, lease, conveyance or other instrument pursuant to this section or any other section of this act shall be authorized in the manner provided in article twenty-two of the compact of April thirty, nineteen hundred twenty-one between the two states creating the port authority, except that as to towns in the state of New York, such consent shall be authorized in the manner provided in the town law and as to counties in the state of New Jersey, such consent shall be authorized in the manner provided in New Jersey statutes annotated, forty: one-one, et seq. Any consent by either state shall be effective if given, and the terms and conditions and execution of any agreement, deed, lease, conveyance or other instrument pursuant to this section or any other section of this act shall be effective if authorized by the governor of such state. Any consent by a public authority, agency or commission shall be effective if given by such public authority, agency or commission.

Suits, actions, or proceedings.

"§ 9. The states of New York and New Jersey hereby consent to suits, actions or proceedings by any municipality, public authority, agency or commission against the port authority upon, in connection with or arising out of any agreement, or any amendment thereof, entered into for any of the purposes of this act, as follows:

"a. for judgments, orders or decrees restraining or enjoining the port authority from transferring title to real property to other persons in cases where it has agreed with said municipality, public authority, agency, or commission for transfer of such title to the municipality, public authority, agency or commission; and

"b. for judgments, orders or decrees restraining or enjoining the port authority from committing or continuing to commit other breaches of such agreement or any amendment thereof; provided, that such judgment, order or decree shall not be entered except upon two days' prior written notice to the port authority of the proposed entry thereof; and provided further that upon appeal taken by the port authority from such judgment, order or decree the service of the notice of appeal shall perfect the appeal and stay the execution of such judgment, order or decree appealed from without an undertaking or other security.

"Nothing herein contained shall be deemed to revoke, rescind or affect any consent to suits, actions, or proceedings against the port authority heretofore given by the two said states in chapter three hundred one of the laws of New York of nineteen hundred fifty and chapter two hundred four of the laws of New Jersey of nineteen hundred fifty-one.

"§ 10. The effectuation of industrial development projects or facilities or any such projects or facilities constituting a portion of any industrial development project or facility, are and will be in all respects for the benefit of the people of the states of New York and New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and the port authority and any subsidiary corporation incorporated for any of the purposes of this act shall be regarded as performing an essential governmental function in undertaking the effectuation thereof, and in carrying out the provisions of law relating thereto.

Taxation.

"§ 11. The port authority shall be required to pay no taxes or assessments upon any of the property acquired and used by it for any of the purposes of this act or upon any deed, mortgage or other

instrument affecting such property or upon the recording of any such instrument. However, to the end that no taxing jurisdiction shall suffer undue loss of taxes and assessments by reason of the acquisition and ownership of property by the port authority for any of the purposes of this act, the port authority is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement or agreements with any city, town, township or village whereby the port authority will undertake to pay in lieu of taxes a fair and reasonable sum, if any, or sums annually in connection with any real property acquired and owned by the port authority for any of the purposes of this act and to provide for the payment as a rental or additional rental charge by any person occupying any portion of any industrial development project or facility either as lessee, vendee or otherwise of such reasonable sum, if any, or sums as hereinafter provided. Such sums in connection with any real property acquired and owned by the port authority for any of the purposes of this act shall not be more than the sum last paid as taxes upon such real property prior to the time of its acquisition by the port authority; provided, however, that in connection with any portion of any industrial development project or facility, which is owned by the port authority or another governmental entity and improved pursuant to this act with buildings, structures or improvements greater in value than the buildings, structures or improvements in existence at the time of its acquisition, development or improvement by the port authority, any person occupying such portion of such industrial development project or facility either as lessee, vendee or otherwise shall, as long as title thereto shall remain in the port authority or in another governmental entity, pay as a rental or additional rental charge an amount in lieu of taxes, if any, not in excess of the taxes on such improvements and on personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made; provided further, however, that neither the port authority nor any of its projects, facilities, properties, monies or bonds and notes shall be obligated, liable or subject to lien of any kind whatsoever for the enforcement, collection or payment thereof. Each such city, town, township or village is hereby authorized and empowered to enter into such agreement or agreements with the port authority which agreement or agreements may also include provisions with respect to the joint review of categories of tenants proposed as occupants for industrial development projects or facilities with the cities, towns, townships or villages in which they are proposed to be located, and to accept the payment or payments which the port authority is hereby authorized and empowered to make or which are paid by a person occupying any such portion of such industrial development project or facility as rental or as additional rental in lieu of taxes, and the sums so received by such city, town, township or village shall be devoted to purposes to which taxes may be applied in all affected taxing jurisdictions unless and until otherwise directed by law of the state in which such city, town, township or village is located. At least ten days prior to the authorization by the port authority of any agreement provided for in this section eleven, the port authority shall notify the chief executive officer of each city in the port district within which an industrial development project or facility has been included in the master plan provided for in paragraph (b) of section three hereof of the proposed authorization of such agreement, shall seek their comments and shall include with such authorization any comments received from such city. The port

Notification to
cities.

authority shall not sell or lease substantially all of an industrial development project or facility to a proposed purchaser or lessee without the prior approval by the municipality wherein the project or facility is located of such purchaser or lessee.

"§ 12. Except as otherwise specifically provided, all details of the effectuation, including but not limited to details of financing, leasing, rentals, fees and other charges, rates, contracts and service, of industrial development projects or facilities by the port authority shall be within its sole discretion and its decision in connection with any and all matters concerning industrial development projects or facilities shall be controlling and conclusive; provided that the construction and operation of any such project or facility shall conform to the environmental and solid waste disposal standards and any state and county plans therefor in the state in which such project or facility is located. At least ninety days prior to the authorization by the port authority of the first contract for the construction of any industrial development project or facility, the port authority shall transmit to the governor of the state in which such project or facility is to be located a statement as to the conformance of such industrial development project or facility with such environmental and solid waste disposal standards and any state and county plans therefor, and shall consult with such governor or his designee with respect thereto. The port authority and the city, town, township or village in which any industrial development project or facility is to be located and for whose benefit such project or facility is undertaken are hereby authorized and empowered to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules and regulations, if any, of such city, town, township or village affecting any industrial development project or facility shall apply to such project or facility. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in such agreement shall be applicable to such industrial development projects or facilities. All such local laws, resolutions, ordinances or rules and regulations enacted after the date of such agreement or agreements shall not be applicable to such projects or facilities unless made applicable by such agreement or agreements or any modification or modifications thereto.

"So long as any facility constituting a portion of any industrial development project or facility shall be owned, controlled or operated by the port authority, no public authority, agency, commission or municipality of either or both of the two states shall have jurisdiction over such project or facility nor shall any such public authority, agency, commission or municipality have any jurisdiction over the terms or method of effectuation of all or any portion thereof by the port authority including but not limited to the transfer of all or any portion thereof to or by the port authority; provided, however, the port authority is authorized and empowered to submit to the jurisdiction over such project or facility of either state or any department thereof or any such public authority, agency, commission or municipality when the exercise of such jurisdiction is necessary for the administration or implementation of federal environmental or solid waste disposal legislation by either state.

"Nothing in this act shall be deemed to prevent the port authority from establishing, acquiring, owning, leasing, constructing, effectuating, developing, maintaining, operating, rehabilitating, improving, selling, transferring or mortgaging all or any portion of any industrial development project or facility through wholly owned subsidiary corporations of the port authority or subsidiary corporations owned

Environmental
statement,
transmittal to
state governor.

Subsidiary
corporations.

by the port authority jointly with any public authority, agency or commission of either or both of the two states or from transferring to or from any such corporations any moneys, real property or other property for any of the purposes of this act. If the port authority shall determine from time to time to form such a subsidiary corporation it shall do so by executing and filing with the secretary of state of the State of New York and the secretary of state of the State of New Jersey a certificate of incorporation, which may be amended from time to time by similar filing, which shall set forth the name of such subsidiary corporation, its duration, the location of its principal office, any joint owners thereof, and the purposes of the incorporation which shall be one or more of the purposes of establishing, acquiring, owning, leasing, constructing, effectuating, developing, maintaining, operating, rehabilitating, improving, selling, transferring or mortgaging all or any portion of any industrial development project or facility. The directors of such subsidiary corporation shall be the same persons holding the offices of commissioners of the port authority together with persons representing any joint owner thereof as provided for in the agreement in connection with the incorporation thereof. Such subsidiary corporation shall have all the powers vested in the port authority itself for the purposes of this act except that it shall not have the power to contract indebtedness. Such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the port authority and of the port authority's property, functions and activities. Such subsidiary corporation shall be subject to the restrictions and limitations to which the port authority may be subject, including, but not limited to the requirement that no action taken at any meeting of the board of directors of such subsidiary corporation shall have force or effect until the governors of the two states shall have an opportunity, in the same manner and within the same time as now or hereafter provided by law for approval or veto of actions taken at any meeting of the port authority itself, to approve or veto such action. Such subsidiary corporation shall be subject to suit in accordance with section nine of this act and chapter three hundred one of the laws of New York of nineteen hundred fifty and chapter two hundred four of the laws of New Jersey of nineteen hundred fifty-one as if such subsidiary corporation were the port authority itself. Such subsidiary corporation may be a participating employer under the New York retirement and social security law or any similar law of either state and the employees of any such subsidiary corporation, except those who are also employees of the port authority, shall not be deemed employees of the port authority.

Certificate of
incorporation.

Directors.

Powers.

Suit.

Cooperative
agreements.

"Whenever any state, municipality, commission, public authority, agency, officer, department, board or division is authorized and empowered for any of the purposes of this act to co-operate and enter into agreements with the port authority or to grant any consent to the port authority or to grant, convey, lease or otherwise transfer any property to the port authority or to execute any document, such state, municipality, commission, public authority, agency, officer, department, board or division shall have the same authorization and power for any of such purposes to co-operate and enter into agreements with such subsidiary corporation and to grant consents to such subsidiary corporation and to grant, convey, lease or otherwise transfer property to such subsidiary corporation and to execute documents for such subsidiary corporation.

"§ 13. The bonds issued by the port authority to provide funds for any of the purposes of this act are hereby made securities in which all

Bonds.

state and municipal officers and bodies of both states, all trust companies and banks other than savings banks, all building and loan associations, savings and loan associations, investment companies and other persons carrying on a commercial banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever (other than savings banks), who are now or may hereafter be authorized by either state to invest in bonds of such state, may properly and legally invest any funds, including capital, belonging to them or within their control, and said bonds are hereby made securities which may properly and legally be deposited with and shall be received by any state or municipal officer or agency of either state for any purpose for which the deposit of bonds of such state is now or may hereafter be authorized. The bonds issued by the port authority to provide funds for any of the purposes of this act as security for which the general reserve fund shall have been pledged in whole or in part are hereby made securities in which all savings banks also may properly and legally invest any funds including capital, belonging to them or within their control.

Acquisition of
property.

"§ 14. Subsequent to and subject to the execution of the agreement or agreements authorized by sections eleven and twelve hereof for the projects and facilities and at the locations specified therein, if the port authority shall find it necessary, convenient or desirable to acquire from time to time any real property or any property other than real property (including but not limited to contract rights and other tangible or intangible personal property), for any of the purposes of this act whether for immediate or future use (including temporary construction, rehabilitation or improvement), the port authority may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for a public use, and upon such determination the said property shall be and shall be deemed to be required for such public use until otherwise determined by the port authority, and such determination shall not be affected by the fact that such property has theretofore been taken for and is then devoted to a public use; but the public use in the hands of or under the control of the port authority shall be deemed superior to the public use in the hands of any other person, association or corporation.

"The port authority may acquire and is hereby authorized so to acquire from time to time, for any of the purposes of this act, such property, whether a fee simple absolute or a lesser estate, by condemnation (including the exercise of the right of eminent domain) under and pursuant to the provisions of the eminent domain procedure law of the state of New York in the case of property located in or having its situs in such state, and chapter three hundred sixty-one of the laws of New Jersey of nineteen hundred seventy-one, in the case of property located in or having its situs in such state, or, at the option of the port authority, as provided in section fifteen of chapter forty-three of the laws of New Jersey of nineteen hundred forty-seven, as amended, in the case of property located in or having its situs in such state, or pursuant to such other and alternate procedure as may be provided by law of the state in which such property is located or has its situs; and all of said statutes for the acquisition of real property shall, for any of the purposes of this act, be applied also to the acquisition of other property authorized by this section, except that such provisions as pertain to surveys, diagrams, maps, plans or profiles, assessed valuation, lis pendens, service of notice and papers, filing in the office of the clerk in which the real property affected is

situated and such other provisions as by their nature cannot be applicable to property other than real property, shall not be applicable to the acquisition of such other property. In the event that any property other than real property is acquired for any of the purposes of this act under this section then, with respect to such other property, notice of such proceeding and all subsequent notices or court processes shall be served upon the owners of such other property and upon the port authority by personal service or by registered or certified mail, except as may be otherwise directed by the court.

"The port authority is hereby authorized and empowered, in its discretion, from time to time to combine any property which is to be acquired as aforesaid by condemnation for any of the purposes of this act for acquisition in a single action or proceeding notwithstanding that part of the property so to be acquired is personal property or mixed real and personal property or may be owned by more than one owner.

"The owner of any property acquired by condemnation or the exercise of the right of eminent domain for any of the purposes of this act shall not be awarded for such property any increment above the just compensation required by the constitutions of the United States and of the state or states in which the property is located or has its situs by reason of any circumstances whatsoever.

Compensation of owner.

"Nothing herein contained shall be construed to prevent the port authority from bringing any proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem proper and necessary, or from acquiring any such property by negotiation or purchase.

"Where a person entitled to an award in the proceedings for the acquisition of property by condemnation or the right of eminent domain for any of the purposes of this act remains in possession of such property after the time of the vesting of title in the port authority, the reasonable value of this use and occupancy of such property subsequent to such time, as fixed by agreement or by the court in such proceedings or by any court of competent jurisdiction, shall be a lien against such award, subject only to liens of record at the time of the vesting of title in the port authority.

"§ 15. The port authority and its duly authorized agents, and all persons acting under its authority and by its direction, may enter in the daytime into and upon any real property for the purpose of making such surveys, diagrams, maps, plans, soundings or borings as the port authority may deem necessary, convenient or desirable for any of the purposes of this act.

Surveys.

"§ 16. Any declarations contained herein with respect to the governmental nature and public purpose of any industrial development project or facility and to the exemption of any industrial development project or facility property and instruments relating thereto from taxation and to the discretion of the port authority with respect to said projects or facilities shall not be construed to imply that other port authority facilities, property and operations are not of a governmental nature or do not serve public purposes, or that they are subject to taxation, or that the determinations of the port authority with respect thereto are not conclusive. The powers hereby vested in the port authority and in any subsidiary corporation incorporated for any of the purposes of this act (including but not limited to the power to acquire real property by condemnation or the exercise of the right of eminent domain) shall be continuing powers and no exercise thereof by the port authority or a subsidiary corporation incorpo-

Other port authority facilities, property, and operations.

rated for any of the purposes of this act shall be deemed to exhaust them or any of them.

"§ 17. This section and the preceding sections hereof constitute an agreement between the states of New York and New Jersey supplementary to the compact between the two states dated April thirtieth, nineteen hundred twenty-one and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and of the comprehensive plan heretofore adopted by the two states, and the powers granted to the port authority shall be construed to be in aid of and not in limitation or in derogation of any other powers, heretofore conferred upon or granted to the port authority."

SEC. 2. Nothing contained in said agreement or compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

Approved December 28, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-507 (Comm. on the Judiciary).

SENATE REPORT No. 96-427 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 125 (1979):

Oct. 23, considered and passed House.

Dec. 6, considered and passed Senate, amended.

Dec. 10, House disagreed to Senate amendment.

Dec. 14, Senate receded from its amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 52:

Dec. 31, Presidential statement.